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COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Argentina, Australia*, Austria, Belgium*, Bulgaria*, Canada, Chile, Cyprus*, Czech Republic, Denmark, Estonia*, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Japan, Latvia*, Lithuania*, Netherlands*, Poland, Portugal*, Romania*, Slovakia*, Slovenia*, Spain, Switzerland* and United Kingdom of Great Britain and Northern Ireland: draft resolution

1998/... Situation of human rights in the Democratic Republic of the Congo

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Mindful that the Democratic Republic of the Congo is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the African Charter on Human and Peoples' Rights, as well as to the International Convention on the Elimination of All Forms of Racial Discrimination,

Recalling previous resolutions of the General Assembly and the Commission on Human Rights on the subject, most recently Commission resolution 1997/58 of 15 April 1997,

Mindful that the new Government of the Democratic Republic of the Congo has inherited a chaotic situation with the adverse effects of a deteriorating economy, a very high inflation rate and a low investment in health, education and housing after decades of dictatorship,

Conscious that the massive presence of Rwandese refugees in the eastern part of the Democratic Republic of the Congo had created major economic, social and political problems,

1. Welcomes:

(a) The report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo (E/CN.4/1998/58);

(b) The expressed commitment of the Government of the Democratic Republic of the Congo to a process of democratization, leading, through the creation of democratic institutions and the holding of elections, to the creation of a State based on the rule of law and respect for human rights, including representative and accountable government, reflecting the aspirations of the people of the Democratic Republic of the Congo;

(c) The establishment by the Government of the Democratic Republic of the Congo of the Constitutional Commission, inaugurated on 5 November 1997, and looks forward to the presentation of a new constitution for which the Government of the Democratic Republic of the Congo has set out a detailed timetable;

(d) The expressed commitment by the Government of the Democratic Republic of the Congo to reform and restore the efficacy of the judicial system;

(e) The effort undertaken by the new Government to subordinate the armed forces to the effective rule of law;

(f) The convening of a recent interministerial seminar, attended by non-governmental organizations, on the place of human rights in the National

Reconstruction Strategy and its conclusions on strengthening cooperation between the Government and non-governmental organizations;

(g) The Government's willingness to include human rights education in the primary and secondary school curricula;

2. Expresses its concern:

(a) At the human rights situation, particularly in the east of the country where acts of violence continue;

(b) At the continuing violations of human rights and fundamental freedoms, in particular:

(i) At the occurrence of the arbitrary arrest and detention without trial of civilians, including journalists and opposition politicians and human rights defenders;

(ii) At the trial of civilians and the use of the death penalty by military courts in disregard of the provisions of the International Covenant on Civil and Political Rights;

(iii) At the temporary suspension of the activities of political parties, pending the referendum on a new constitution, and the fact that certain opposition figures have been detained or banished from Kinshasa;

(iv) At recent restrictions on the work of non-governmental organizations and, in particular, at the seizure of the report of a human rights organization and its recent dissolution;

(c) At the refusal to allow the Special Rapporteur to visit the Democratic Republic of the Congo in the discharge of his mandate and at the inability of the joint mission set up under Commission resolution 1997/58 to gain access in order to carry out its mandate;

(d) At the large numbers of refugees and displaced persons in the Democratic Republic of the Congo who disappeared between 1994 and 1997 and who have not yet been accounted for and at serious allegations of killings and other human rights abuses in this connection;

3. Calls upon the Government of the Democratic Republic of the Congo:

(a) To fully implement its commitment to the democratization process, respect for human rights and the rule of law;

(b) To continue with its timetable for preparations for the holding of free and fair elections drawing, where appropriate, on assistance from the

international community and to allow the full restoration of political party activity sufficiently in advance of those elections to provide a meaningful choice for the people of the Democratic Republic of the Congo;

(c) To ensure full respect for freedom of opinion and expression, including for all mass media, as well as freedom of association and assembly throughout the territory of the Democratic Republic of the Congo;

(d) To work closely and strengthen further its cooperation with the office of the High Commission for Human Rights in Kinshasa;

(e) To promote human rights awareness, including by strengthening cooperation with civil society including human rights non-governmental organizations;

4. Expresses its serious concern at the circumstances which have obliged the Secretary-General to withdraw the Investigate Team set up under his auspices, including a series of obstacles faced by the Team, the temporary detention of one Team member, the seizure of United Nations documents and allegations of intimidation of witnesses; notes that the Secretary-General's Investigative Team will prepare a report based on its work to date within the Democratic Republic of the Congo and on such other sources as are available to it; requests the Secretary-General to report, with any comments and recommendations he may wish to make, inter alia to the General Assembly and to the Commission at its fifty-fifth session; and demands that the Government of the Democratic Republic of the Congo cooperate fully with the Secretary-General, the United Nations High Commission for Human Rights and the Commission in addressing the allegations in question;

5. Decides:

(a) To extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo for a further year, requests the Special Rapporteur to submit an interim report to the General Assembly at its fifty-third session and to report to the Commission at its fifty-fifth session on human rights in the Democratic Republic of the Congo and on the possibilities for the international community to assist with local capacity-building, and also requests the Special Rapporteur to continue to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

(c) To request the international community to support the office of the High Commissioner for Human Rights in Kinshasa, in order, in particular:

(i) To strengthen its involvement in programmes of technical cooperation, advisory services and human rights advocacy programmes with the Government of the Democratic Republic of the Congo, including supporting efforts by the Government of the Democratic Republic of the Congo towards strengthening the judicial system;

(ii) To strengthen its support for, continue and expand cooperation with human rights non-governmental organizations in the Democratic Republic of the Congo;

6. Recommends the following draft resolution to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1998/... of ... April 1998, endorses the Commission's decision to extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo for a further year and requests him to report to the Commission at its fifty-fifth session on the situation of human rights in the Democratic Republic of the Congo and on the possibilities for the international community to assist with local capacity-building, and also requests the Special Rapporteur to keep a gender perspective in mind when seeking and analysing information."

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COMMISSION ON HUMAN RIGHTS
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Agenda item 15

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-NINTH SESSION

Netherlands* and United States of America: draft resolution proposed as replacement for draft decision 5 of the Sub-Commission

1998/... Privatization of prisons

The Commission on Human Rights,

Taking note of resolution 1997/26 of 28 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having taken note of the working paper submitted by Mr. Miguel Alfonso Martínez (E/CN.4/Sub.2/1991/56) as well as the outline prepared by Ms. Claire Palley on the subject (E/CN.4/Sub.2/1993/21),

Recalling its resolution 1997/22 of 11 April 1997, in which the Commission, inter alia, requested that special attention be paid to the process of selection of studies to be undertaken,

Reiterating that studies to be undertaken by members of the Sub-Commission should be based on extended working papers, in which the subject of the proposed study is clearly identified,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Reiterating also that special rapporteurs of the Sub-Commission should be members of the Sub-Commission or their alternates,

Decides to request the Sub-Commission on Prevention of Discrimination and Protection of Minorities to reconsider its recommendation to appoint a Special Rapporteur on the privatization of prisons.

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Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Afghanistan*, Algeria*, Bahrain*, Bangladesh, Cuba, Democratic Republic of the Congo, Egypt*, Indonesia, Jordan*, Kuwait*, Lebanon*, Malaysia, Mauritania*, Morocco, Oman*, Qatar*, Saudi Arabia*, Sudan, Syrian Arab Republic*, Tunisia and Yemen*: draft resolution

1998/... Human rights situation in southern Lebanon and West Bakaa

The Commission on Human Rights,

Gravely concerned at the persistent practices of the Israeli occupation forces in southern Lebanon and West Bakaa which constitute a violation of the principles of international law regarding the protection of human rights, in particular the Universal Declaration of Human Rights, as well as a grave violation of the relevant provisions of international humanitarian law as contained in the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the Fourth Hague Convention of 1907,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Reiterating its deep regret at the failure of Israel to implement Security Council resolution 425 (1978) of 19 March 1978,

Recalling the provisions of the April Understanding of 26 April 1996,

Censuring the repeated Israeli aggressions in southern Lebanon and West Bakaa which cause a large number of deaths and injuries among civilians, displace thousands of families and destroy dwellings and properties,

Reaffirming that the continued occupation and practices of the Israeli forces constitute a violation of the relevant resolutions of the Security Council as well as of the will of the international community and the conventions in force on this matter,

Hoping that the efforts made in order to achieve peace in the Middle East will put an end to the violations of human rights that are being committed in the occupied zone in southern Lebanon and West Bakaa and that the peace negotiations will continue with a view to reaching a settlement of the Middle East conflict and achieving a just and comprehensive peace in the region,

Gravely concerned at the persistent detention by Israel of many Lebanese citizens in the detention centres of Khiyam and Marjayoun, and at the death of some of these detainees as a result of ill-treatment and torture,

Expressing its indignation at the ruling handed down on 4 March 1998 by the Israeli Supreme Court permitting the Israeli authorities to retain Lebanese detainees in Israeli prisons without trial and to hold them as hostages and as a bargaining card, which constitutes a flagrant violation of the principles of human rights,

Reaffirming its resolution 1997/55 of 15 April 1997, and expressing its deep regret at the failure of Israel to implement that resolution,

1. Deplores the continued Israeli violations of human rights in the occupied zone in southern Lebanon and West Bakaa, demonstrated in particular by the abduction and ongoing arbitrary detention of Lebanese citizens, the destruction of their dwellings, the confiscation of their property, their expulsion from their land, the bombardment of peaceful villages and civilian areas, and other practices violating the most fundamental principles of human rights;

2. Calls upon Israel to put an immediate end to such practices, consisting in air raids and the use of prohibited weapons such as fragmentation bombs, and to implement Security Council resolution 425 (1978)

of 19 March 1978 requiring Israel's immediate, total and unconditional withdrawal from all Lebanese territories and respect for the sovereignty, independence and territorial integrity of Lebanon;

3. Also calls upon the Government of Israel, the occupying Power of territories in southern Lebanon and West Bakaa, to comply with the Geneva Conventions of 1949, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

4. Further calls upon the Government of Israel, the occupying Power of territories in southern Lebanon and West Bakaa, to refrain from holding Lebanese detainees incarcerated in its prisons as hostages for bargaining purposes, and to release them all immediately as well as the other persons detained in prisons and detention centres in the occupied territories in Lebanon in violation of all the Geneva Conventions and other provisions of international law;

5. Affirms the obligation for Israel, the occupying Power of territories in southern Lebanon and West Bakaa, to commit itself to allowing the International Committee of the Red Cross and other international humanitarian organizations to recommence their periodic visits to the detainees and to verify their health and humanitarian conditions and, in particular, the circumstances in which some of them died as a result of ill-treatment and torture, and to allow the families of the detainees to resume their visits to the Khiyam detention centre to which they have been totally denied access since 10 September 1997;

6. Requests the Secretary-General:

(a) To bring the present resolution to the attention of the Government of Israel and to invite it to provide information concerning the extent of its implementation thereof;

(b) To report to the General Assembly at its fifty-third session and to the Commission on Human Rights at its fifty-fifth session on the results of his efforts in this regard:

7. Decides to continue its consideration of the situation of human rights in southern Lebanon and West Bakaa at its fifty-fifth session.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Austria, Belgium*, Bulgaria*, Canada, Cyprus*, Czech Republic, Denmark, Estonia*, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Latvia*, Liechtenstein*, Lithuania*, Luxembourg, Netherlands*, Norway*, Poland, Portugal*, Romania*, San Marino*, Slovakia*, Slovenia*, Spain*, Sweden*, Switzerland*, United States of America, United Kingdom of Great Britain and Northern Ireland: draft resolution

1998/... Situation of human rights in Myanmar

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Aware that the Universal Declaration of Human Rights states that the will of the people shall be the basis of the authority of government,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Mindful that Myanmar is a party to the Convention on the Rights of the Child and the Geneva Conventions of 1949 on the protection of victims of war,

Recalling previous resolutions of the General Assembly and the Commission on Human Rights on the subject, most recently Assembly resolution 52/137 of 12 December 1997 and Commission resolution 1997/64 of 16 April 1997,

1. Welcomes:

(a) The report of the Special Rapporteur (E/CN.4/1998/70) and the report of the Secretary General (E/CN.4/1998/163);

(b) The cooperation by the Government of Myanmar with the Office of the United Nations High Commissioner for Refugees and international non-governmental organizations with respect to the voluntary repatriation and reintegration of returnees from Bangladesh, and takes note of the role of the United Nations Children's Fund in the promotion in Myanmar of the Convention on the Rights of the Child;

(c) The accession of the Government of Myanmar on 22 July 1997 to the Convention on the Elimination of All Forms of Discrimination against Women;

(d) The visits to Myanmar by the Special Envoy of the Secretary-General in May 1997 and following the Secretary-General's meeting with Senior General Than Shwe, in January 1998, for the purpose of discussions with the Government and with Aung San Suu Kyi and other political leaders;

(e) The remission of sentences for some long-term prisoners announced by the Government of Myanmar in December, and calls for this to be widened to include prisoners imprisoned for their peaceful political activities;

(f) The holding of the Party Congress of the National League for Democracy in September 1997 and subsequent meetings marking Myanmar's National Day, Independence Day and Union Day;

2. Expresses its deep concern:

(a) At the continuing violations of human rights in Myanmar as reported by the Special Rapporteur, including extrajudicial, summary or arbitrary executions and enforced disappearances, torture, abuse of women and children by government agents, arbitrary seizures of land and property, violations of freedom of movement of people and goods, and the imposition of oppressive measures directed in particular at ethnic and religious minorities, including systematic programmes of forced relocation;

(b) At the widespread use of forced labour, including work on infrastructure projects and as porters for the army;

(c) At the severe restrictions on the freedoms of opinion, expression, assembly and association, at the restrictions on citizens' access to information including censorship controls on all forms of domestic media and many international publications, and at the restrictions imposed on citizens wishing to travel abroad including the denial of passports on political grounds, and at the continued closure of most institutions of higher education for political reasons;

(d) At the absence of due process of law, including arbitrary arrest and politically motivated arrest and detention, the detention of prisoners without trial and the trial of detainees in secrecy without proper legal representation, and at the inhuman treatment of prisoners, leading to illness and deaths in custody;

(e) At the violation of the rights of women, especially women belonging to ethnic minorities and members of the political opposition, particularly sexual violence and exploitation, including systematic rape, pregnancies resulting from rape and sexual enslavement;

(f) At continuing violations of the rights of children in contravention of the Convention on the Rights of the Child, in particular by the lack of conformity of the existing legal framework with the Convention, by recruitment of children into forced labour programmes and into the armed forces and by discrimination against children belonging to ethnic and religious minority groups;

(g) That the human rights situation in Myanmar, including the systematic programmes of forced relocations directed against ethnic minorities, notably in Karen, Kayan, Rakhine and Shan States and in Tennasserim Division, has resulted in displaced persons and flows of refugees to neighbouring countries, thus creating problems for the countries concerned, and deplores recent attacks on refugee camps on the border between Thailand and Myanmar;

(h) That the Government of Myanmar still has not implemented its commitment to take all necessary steps towards democracy in the light of the democratic elections of 1990, while noting that the absence of respect for the rights pertaining to democratic governance is at the root of all major violations of human rights in Myanmar;

(i) That the Government of Myanmar refuses to cooperate with and has not yet agreed to a visit by the Special Rapporteur;

(j) That most of the representatives duly elected in 1990 are still excluded from participating in the meetings of the National Convention, created to prepare basic elements for the drafting of a new constitution, and that one of the objectives of the National Convention is to maintain the participation of the armed forces in a leading role in the future political life of the State, and notes also with concern that the composition and working procedures of the National Convention do not permit the elected representatives of the people freely to express their views, and concludes that the National Convention does not appear to constitute the necessary steps towards the restoration of democracy;

(k) At the restrictions placed upon political leaders, particularly Daw Aung San Suu Kyi, at the continued harassment, arrest and detention of members and supporters of the National League for Democracy and other democratic groups, students, trade unionists and members of religious orders for peacefully exercising their right to freedom of expression, assembly and association, and at the harsh sentences imposed on supporters of the National League for Democracy in December 1997, and at the forced resignations of elected representatives;

(l) At the failure of the Government of Myanmar to engage in a substantive political dialogue with Daw Aung San Suu Kyi and other political leaders, including representatives of ethnic groups, although very limited contacts between the Government of Myanmar and the National League for Democracy have taken place;

(m) At the imprisonment of members of the National League for Democracy, among others, and restrictions which have substantially disrupted legitimate gatherings of the National League for Democracy;

3. Calls upon the Government of Myanmar:

(a) To guarantee an end to violations of the right to life and integrity of the human being and to ensure full respect for human rights and fundamental freedoms, including freedoms of thought, opinion, expression, association and assembly, the right to a fair trial by an independent and impartial judiciary and the protection of the rights of persons belonging to ethnic and religious minorities;

(b) To take urgent and meaningful measures to ensure the establishment of democracy in accordance with the will of the people as expressed in the democratic elections held in 1990 and, to this end, to engage immediately and unconditionally in substantive dialogue with the leaders of political parties, including Daw Aung San Suu Kyi, and with leaders of ethnic groups, with the aim of achieving national reconciliation and restoration of democracy, and to ensure that political parties and non-governmental organizations can function freely;

(c) To take all appropriate measures to allow all citizens to participate freely in the political process, in accordance with the principles of the Universal Declaration of Human Rights, and to accelerate the process of transition to democracy, in particular through the transfer of power to democratically elected representatives;

(d) Urgently to improve conditions of detention and to allow the competent international humanitarian organization to communicate freely and confidentially with prisoners;

(e) To cooperate fully and unreservedly with the relevant mechanisms of the Commission, in particular with the Special Rapporteur, and to ensure his access to Myanmar in order to establish direct contact with the Government and with any person in the country whom he may deem appropriate, to allow him fully to discharge his mandate;

(f) To continue to cooperate with the Secretary-General or his representatives and to broaden this dialogue, including through access to any person deemed appropriate by the Secretary-General, and to implement their recommendations;

(g) To ensure the safety and physical well-being of all political leaders, including Daw Aung San Suu Kyi, and to permit unrestricted communication with and physical access to Aung San Suu Kyi and other political leaders, and to release immediately and unconditionally those detained for political reasons, to ensure their physical integrity and to permit them to participate in a meaningful process of national reconciliation;

(h) To fulfil its obligations under the Convention on the Rights of the Child, including as set out in the concluding observations of the Committee on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination against Women and to consider becoming a party to the International Covenant on Civil and Political Rights, the International

Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention relating to the Status of Refugees, as well as to other human rights instruments;

(i) And all other parties to the hostilities in Myanmar to respect fully their obligations under international humanitarian law, including article 3 common to the Geneva Conventions of 12 August 1949, to halt the use of weapons against the civilian populations, to protect all civilians, including children, women and persons belonging to ethnic or religious minorities, from violations of humanitarian law and to avail themselves of services offered by impartial humanitarian bodies;

(j) To fulfil its obligations as a State party to the Forced Labour Convention, 1930 (No. 29) and to the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) of the International Labour Organization and to cooperate more closely with the International Labour Organization, in particular with the Commission of Inquiry appointed in accordance with article 26 of the Constitution of the International Labour Organization;

(k) To end the enforced displacement of persons and other causes of refugee flows to neighbouring countries and to create conditions conducive to their voluntary return and full reintegration in safety and dignity including, where these are lacking, rights of full citizenship, in close cooperation with the Office of the United Nations High Commissioner for Refugees;

(l) To fulfil its obligations to end impunity of perpetrators of human rights violations, including members of the military and to investigate and prosecute alleged violations committed by government agents in all circumstances;

(m) To investigate the circumstances which led to the death in June 1996 of Mr. James Leander Nichols while detained by the Government of Myanmar and to prosecute the person or persons responsible;

4. Decides:

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year, and requests the Special Rapporteur to submit an interim report to the

General Assembly at its fifty-third session and to report to the Commission at its fifty-fifth session, and to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully and to pursue all efforts to ensure that the Special Rapporteur is authorized to visit Myanmar;

(c) To request the Secretary-General to continue his discussions with the Government of Myanmar and anyone he may consider appropriate in order to assist in the implementation of General Assembly resolution 52/137 and of the present resolution;

(d) To continue its consideration of this question at its fifty-fifth session.

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COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Australia*, Austria, Belgium*, Bulgaria*, Canada, Cyprus*, Czech Republic, Denmark, Estonia*, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Latvia*, Liechtenstein*, Lithuania*, Luxembourg, Netherlands*, New Zealand*, Norway*, Poland, Portugal*, Romania*, San Marino*, Slovakia*, Slovenia*, Spain*, Sweden*, Switzerland*, United States of America, United Kingdom of Great Britain and Northern Ireland: draft resolution

1998/... Situation of human rights in Myanmar

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Aware that the Universal Declaration of Human Rights states that the will of the people shall be the basis of the authority of government,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Mindful that Myanmar is a party to the Convention on the Rights of the Child and the Geneva Conventions of 1949 on the protection of victims of war,

Recalling previous resolutions of the General Assembly and the Commission on Human Rights on the subject, most recently Assembly resolution 52/137 of 12 December 1997 and Commission resolution 1997/64 of 16 April 1997,

1. Welcomes:

(a) The report of the Special Rapporteur (E/CN.4/1998/70) and the report of the Secretary General (E/CN.4/1998/163);

(b) The cooperation by the Government of Myanmar with the Office of the United Nations High Commissioner for Refugees and international non-governmental organizations with respect to the voluntary repatriation and reintegration of returnees from Bangladesh, and takes note of the role of the United Nations Children's Fund in the promotion in Myanmar of the Convention on the Rights of the Child;

(c) The accession of the Government of Myanmar on 22 July 1997 to the Convention on the Elimination of All Forms of Discrimination against Women;

(d) The Secretary-General's meeting with Senior General Than Shwe, Chairman of the State Peace and Development Council and Prime Minister, and the visits to Myanmar by the Special Envoy of the Secretary-General in May 1997 and in January 1998, for the purpose of discussions with the Government and with Aung San Suu Kyi and other political leaders;

(e) The remission of sentences for some long-term prisoners announced by the Government of Myanmar in December, and calls for this to be widened to include prisoners imprisoned for their peaceful political activities;

(f) The holding of the Party Congress of the National League for Democracy in September 1997 and subsequent meetings marking Myanmar's National Day, Independence Day and Union Day;

2. Takes note of the contact, despite its limited nature, between the Government of Myanmar and the National League for Democracy, but deeply regrets the failure of the Government of Myanmar to engage in a substantive political dialogue with Daw Aung San Suu Kyi and other political leaders, including representatives of ethnic groups;

3. Expresses its deep concern:

(a) At the continuing violations of human rights in Myanmar as reported by the Special Rapporteur, including extrajudicial, summary or

arbitrary executions and enforced disappearances, torture, abuse of women and children by government agents, arbitrary seizures of land and property, violations of freedom of movement of people and goods, and the imposition of oppressive measures directed in particular at ethnic and religious minorities, including systematic programmes of forced relocation, and the widespread use of forced labour, including work on infrastructure projects and as porters for the army;

(b) At the severe restrictions on the freedoms of opinion, expression, assembly and association, the restrictions on citizens' access to information including censorship controls on all forms of domestic media and many international publications and the restrictions imposed on citizens wishing to travel abroad, including the denial of passports on political grounds; at the continued closure of most institutions of higher education for political reasons, at the absence of due process of law, including arbitrary arrest and politically motivated arrest and detention, the detention of prisoners without trial and the trial of detainees in secrecy without proper legal representation; and at the inhuman treatment of prisoners, leading to illness and deaths in custody, as reported by the Special Rapporteur;

(c) At the violations of the rights of women, especially women who are refugees, internally displaced women and women belonging to ethnic minorities or the political opposition, in particular forced labour, sexual violence and exploitation, including rape, as reported by the Special Rapporteur;

(d) At continuing violations of the rights of children in contravention of the Convention on the Rights of the Child, in particular by the lack of conformity of the existing legal framework with the Convention, by recruitment of children into forced labour programmes and into the armed forces and by discrimination against children belonging to ethnic and religious minority groups;

(e) At the violations of the rights of persons belonging to minorities, including the systematic programmes of forced relocations directed against ethnic minorities, notably in Karen, Kayan, Rakhine and Shan States and in Tennasserim Division, resulting in displaced persons and flows of refugees to neighbouring countries, thus creating problems for the countries concerned, and deplores recent attacks on camps on the border between Thailand and Myanmar;

(f) That the Government of Myanmar still has not implemented its commitment to take all necessary steps towards democracy in the light of the democratic elections of 1990, while noting that the absence of respect for the rights pertaining to democratic governance is at the root of all major violations of human rights in Myanmar;

(g) That the Government of Myanmar refuses to cooperate with and has not yet agreed to a visit by the Special Rapporteur;

(h) That most of the representatives duly elected in 1990 are still excluded from participating in the meetings of the National Convention, created to prepare basic elements for the drafting of a new constitution, and that one of the objectives of the National Convention is to maintain the participation of the armed forces in a leading role in the future political life of the State, and notes also with concern that the composition and working procedures of the National Convention do not permit the elected representatives of the people freely to express their views, and concludes that the National Convention does not appear to constitute the necessary steps towards the restoration of democracy;

(i) At the restrictions placed upon political leaders, particularly Daw Aung San Suu Kyi, at the continued harassment, arrest and detention of members and supporters of the National League for Democracy and other democratic groups, students, trade unionists and members of religious orders for peacefully exercising their right to freedom of expression, assembly and association, and at the harsh sentences imposed on supporters of the National League for Democracy in December 1997, and at the forced resignations of elected representatives;

(j) At the imprisonment of members of the National League for Democracy, among others, and restrictions which have substantially disrupted legitimate gatherings of the National League for Democracy;

4. Calls upon the Government of Myanmar:

(a) To guarantee an end to violations of the right to life and integrity of the human being and to ensure full respect for human rights and fundamental freedoms, including freedoms of thought, opinion, expression, association and assembly, the right to a fair trial by an independent and impartial judiciary and the protection of the rights of persons belonging to ethnic and religious minorities;

(b) To take urgent and meaningful measures to ensure the establishment of democracy in accordance with the will of the people as expressed in the democratic elections held in 1990 and, to this end, to engage immediately and unconditionally in substantive dialogue with the leaders of political parties, including Daw Aung San Suu Kyi, and with leaders of ethnic groups, with the aim of achieving national reconciliation and restoration of democracy, and to ensure that political parties and non-governmental organizations can function freely;

(c) To take all appropriate measures to allow all citizens to participate freely in the political process, in accordance with the principles of the Universal Declaration of Human Rights, and to accelerate the process of transition to democracy, in particular through the transfer of power to democratically elected representatives;

(d) Urgently to improve conditions of detention and to allow the competent international humanitarian organization to communicate freely and confidentially with prisoners;

(e) To cooperate fully and unreservedly with the relevant mechanisms of the Commission, in particular with the Special Rapporteur, and to ensure his access to Myanmar in order to establish direct contact with the Government and with any person in the country whom he may deem appropriate, to allow him fully to discharge his mandate;

(f) To continue to cooperate with the Secretary-General or his representatives and to broaden this dialogue, including through access to any person deemed appropriate by the Secretary-General, and to implement their recommendations;

(g) To ensure the safety and physical well-being of all political leaders, including Daw Aung San Suu Kyi, and to permit unrestricted communication with and physical access to Aung San Suu Kyi and other political leaders, and to release immediately and unconditionally those detained for political reasons, to ensure their physical integrity and to permit them to participate in a meaningful process of national reconciliation;

(h) To fulfil its obligations under the Convention on the Rights of the Child, including as set out in the concluding observations of the Committee on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination against Women and to consider becoming a party to the International Covenant on Civil and Political Rights, the International

Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention relating to the Status of Refugees, as well as to other human rights instruments;

(i) And all other parties to the hostilities in Myanmar to respect fully their obligations under international humanitarian law, including article 3 common to the Geneva Conventions of 12 August 1949, to halt the use of weapons against the civilian populations, to protect all civilians, including children, women and persons belonging to ethnic or religious minorities, from violations of humanitarian law and to avail themselves of services offered by impartial humanitarian bodies;

(j) To fulfil its obligations as a State party to the Forced Labour Convention, 1930 (No. 29) and to the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) of the International Labour Organization and to cooperate more closely with the International Labour Organization, in particular with the Commission of Inquiry appointed in accordance with article 26 of the Constitution of the International Labour Organization;

(k) To end the enforced displacement of persons and other causes of refugee flows to neighbouring countries and to create conditions conducive to their voluntary return and full reintegration in safety and dignity including, where these are lacking, rights of full citizenship, in close cooperation with the Office of the United Nations High Commissioner for Refugees;

(l) To fulfil its obligations to end impunity of perpetrators of human rights violations, including members of the military and to investigate and prosecute alleged violations committed by government agents in all circumstances;

(m) To investigate the circumstances which led to the death in June 1996 of Mr. James Leander Nichols while detained by the Government of Myanmar and to prosecute the person or persons responsible;

5. Decides:

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year, and requests the Special Rapporteur to submit an interim report to the

General Assembly at its fifty-third session and to report to the Commission at its fifty-fifth session, and to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully and to pursue all efforts to ensure that the Special Rapporteur is authorized to visit Myanmar;

(c) To request the Secretary-General to continue his discussions with the Government of Myanmar and anyone he may consider appropriate in order to assist in the implementation of General Assembly resolution 52/137 and of the present resolution;

(d) To continue its consideration of this question at its fifty-fifth session.

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E

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COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Angola*, Austria, Belgium*, Brazil, Bulgaria*, Czech Republic, Denmark, Estonia*, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Latvia*, Liechtenstein*, Lithuania*, Luxembourg, Mozambique, Netherlands*, Norway*, Poland, Portugal*, Romania*, Slovakia*, Slovenia*, Spain*, Sweden*, Switzerland* and United Kingdom of Great Britain and Northern Ireland:

draft resolution

1998/... Situation of human rights in East Timor

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Indonesia is a party to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and to the Geneva Conventions of 1949 on the protection of victims of war,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling its resolution 1997/63 of 16 April 1997, and bearing in mind statements by the Chairman of the Commission on the situation of human rights in East Timor at its forty-eighth, fiftieth, fifty-first and fifty-second sessions,

1. Welcomes:

(a) The report of the Secretary-General (E/CN.4/1998/58) and the work of his personal representative, in particular the establishment of regular dialogue at official level;

(b) The continuing efforts of the Indonesian National Commission on Human Rights to investigate human rights violations, and stresses the importance of independent monitoring of the situation in East Timor by its office in Dili, East Timor;

(c) The commitments by the Government of Indonesia to continue the dialogue under the auspices of the Secretary-General for achieving a just, comprehensive and internationally acceptable solution to the question of East Timor;

2. Expresses its deep concern:

(a) At the continuing reports of violations of human rights in East Timor, including reports of extrajudicial killings, disappearances, torture and arbitrary detention as contained in the reports of the Special Rapporteur on torture (E/CN.4/1998/38), the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1998/68), the Special Rapporteur on violence against women (E/CN.4/1998/54), the Working Group on Arbitrary Detention (E/CN.4/1998/44) and the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1998/43);

(b) At the increased violence in East Timor in 1997, particularly at the time of the Indonesian elections;

(c) At the lack of progress made by the Indonesian authorities towards complying with Commission resolution 1997/63 and their commitments undertaken in statements agreed by consensus at previous sessions of the Commission;

(d) That the Government of Indonesia has not yet invited thematic rapporteurs and working groups of the Commission to East Timor, in spite of commitments undertaken to do so in 1997;

(e) At the continuing policy of migration to East Timor;

3. Calls upon the Government of Indonesia:

(a) To take the necessary measures in order to ensure full respect for the human rights and fundamental freedoms of the people of East Timor, inter alia by considering a reduction in the number of military personnel stationed in East Timor;

(b) To ensure the early release of East Timorese detained or sentenced for political reasons and to clarify further the circumstances surrounding the violent incident that took place in Dili in November 1991;

(c) To ensure that all East Timorese in custody are treated humanely and in accordance with international standards, and that all trials in East Timor are conducted in accordance with international standards;

(d) To cooperate fully with the Commission and its thematic rapporteurs and working groups and to invite these rapporteurs and working groups to visit East Timor, in particular the Special Rapporteur on torture, in line with the commitment undertaken to invite a thematic rapporteur in 1997;

(e) To undertake all necessary action in order to upgrade the memorandum of intent of 26 October 1994 on technical cooperation to the envisaged memorandum of understanding, and in this regard requests the United Nations High Commissioner for Human Rights to report on the follow-up to the memorandum of intent;

(f) To accept the envisaged assignment of a programme officer of the Office of the High Commissioner for Human Rights to the Jakarta office of the United Nations Development Programme, as follow-up to the commitment undertaken, and to provide that officer with unhindered access to East Timor;

(g) To provide access to East Timor for human rights organizations and the international media;

4. Decides:

(a) To consider the situation in East Timor at its fifty-fifth session under the same agenda item on the basis of the reports of special rapporteurs and working groups and that of the Secretary-General;

(b) To encourage the Secretary-General to continue his good offices mission for achieving a just, comprehensive and internationally acceptable solution to the question of East Timor and in this framework to encourage the all-inclusive intra-East Timorese dialogue to continue under the auspices of the United Nations.

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COMMISSION ON HUMAN RIGHTS
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Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Argentina, Australia*, Austria, Belgium*, Bulgaria*, Canada, Czech Republic, Denmark, Estonia*, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Japan, Latvia*, Lithuania*, Luxembourg, Netherlands*, Poland, Portugal*, Romania*, San Marino*, Slovakia*, Slovenia*, Spain*, Sweden*, Switzerland* and United Kingdom of Great Britain and Northern Ireland: draft resolution

1998/... Situation of human rights in Nigeria

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Recalling that Nigeria is a party to, inter alia, the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling previous resolutions of the General Assembly and the Commission on Human Rights, most recently General Assembly resolution 52/144 of 12 December 1997 and Commission resolution 1997/53 of 15 April 1997,

Noting that the Commonwealth has been concerned about the continued existence of a military government and the failure to observe fundamental human rights, and has decided that Nigeria should remain suspended from the Commonwealth,

Noting also the decision of the Governing Body of the International Labour Organization at its 271st session in March 1998 to initiate a Commission of Inquiry into abuses of labour rights in Nigeria under the procedure set out in article 26 (4) of its Constitution,

1. Welcomes:

(a) The report on the situation of human rights in Nigeria submitted by the Special Rapporteur (E/CN.4/1998/62);

(b) The declared commitment by the Government of Nigeria to civilian rule, multi-party democracy and freedom of assembly, press and political activity by 1 October 1998, and recalling in this regard the declaration of 1 October 1995 which General Abacha reconfirmed on 17 November 1997;

2. Expresses its deep concern:

(a) At continuing grave violations of human rights and fundamental freedoms in Nigeria, including arbitrary detention, as well as failure to respect due process of law;

(b) That a number of military and civilian persons are being tried, in camera and without access to a lawyer of their own choice, in connection with an alleged coup attempt, by the same flawed judicial process which led to the arbitrary execution of Ken Saro-Wiwa and his associates;

(c) At the life-threatening prison conditions and at the death while in detention of Shehu Yar 'Adua;

(d) That the Nigerian authorities have refused a visit by the Special Rapporteur;

(e) That the absence of representative government in Nigeria has led to violations of human rights and fundamental freedoms and is contrary to the popular support for democratic government as evidenced in the 1993 elections;

3. Calls upon the Government of Nigeria:

(a) To ensure urgently the observance of human rights and fundamental freedoms, including by respecting the right to life, by releasing all political prisoners including those detained in connection with the 1993 presidential elections, among them Chief M.K.O. Abiola, trade union leaders, human rights advocates and journalists currently detained and by guaranteeing freedom of the press, freedom of opinion and association and respect for the rights of individuals, including persons belonging to minorities;

(b) To repeal all relevant decrees which oust the jurisdiction of the courts and to ensure that the court orders are promptly and fully implemented;

(c) To ensure that all trials are held fairly and promptly and in strict conformity with international human rights standards;

(d) To ensure that the treatment of prisoners and their conditions of detention are in accordance with recognized international standards;

(e) To abide by its freely undertaken obligations under the International Covenants on Human Rights and other human rights instruments, and notes with interest in this regard the recommendations of the Human Rights Committee to the Government of Nigeria (see CCPR/C/79/Add.65), and to respect the decisions of the African Commission on Human and Peoples' Rights as cited by the Special Rapporteur in his report;

(f) To take concrete and credible steps to restore democratic government without delay, to end rule by decree and to permit an observer presence during transition, as recommended by the United Nations fact-finding mission;

(g) To fulfil its obligations under the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) of the International Labour Organization and to cooperate without delay with the Commission of Inquiry of the International Labour Organization;

(h) To ensure the independence of the National Human Rights Commission in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights annexed to General Assembly resolution 48/134;

(i) To implement fully its interim undertakings to the Secretary-General without further delay and to respond in full to the recommendations of the Secretary-General's mission to Nigeria;

(j) To cooperate fully with the Commission and its mechanisms, including requests by the Special Rapporteur to visit Nigeria;

(k) To implement fully all the other recommendations of the Special Rapporteur;

4. Decides:

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1997/53, for a further year, and requests the Special Rapporteur to submit an interim report to the General Assembly at its fifty-third session, and to report to the Commission at its fifty-fifth session, and to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

(c) To continue the examination of the situation of human rights in Nigeria at its fifty-fifth session under the same agenda item.

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Agenda item 20

RIGHTS OF THE CHILD

Sudan: proposed amendments to E/CN.4/1998/L.40

1. In the title of the resolution, in preambular paragraphs 6 and 7, and in operative paragraph 9 add the phrase "and southern Sudan" after the phrase "in northern Uganda".

2. In operative paragraph 1 delete the phrase "and non-governmental organizations".

3. In operative paragraph 3:

(a) Add the phrase "and southern Sudan" after the phrase "in northern Uganda".

(b) Add the phrase "and the rebel groups fighting in southern Sudan" at the end of the paragraph.

4. In operative paragraph 4 add the phrase "and in southern Sudan by the rebel groups fighting the Government" at the end of the paragraph.

5. In operative paragraphs 5 and 6 add the phrase "and by the rebel groups fighting in southern Sudan" at the end of the paragraph.

6. In operative paragraph 7:

(a) Add the phrase "and on the rebel groups fighting in southern Sudan" after the phrase "the Lord's Resistance Army".

(b) At the end of the third line replace the word "it" by the word "them".

(c) Add the phrase "and southern Sudan, respectively" at the end of the paragraph.

7. In operative paragraph 8:

(a) Add the phrase "and southern Sudan" after the phrase "in northern Uganda".

(b) Add the phrase "and by rebel groups fighting in southern Sudan, respectively" after the phrase "the Lord's Resistance Army".

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Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Argentina, Australia*, Austria, Belgium*, Bulgaria*, Canada, Cyprus*, Czech Republic, Denmark, Estonia*, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Japan, Kuwait*, Latvia*, Liechtenstein*, Lithuania*, Luxembourg, Netherlands*, Norway*, Poland, Portugal*, Romania*, Slovenia*, Spain*, Sweden*, Switzerland*, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

1998/... Situation of human rights in Iraq

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Mindful that Iraq is a party to the International Covenants on Human Rights and to other international human rights instruments, and to the Geneva Conventions of 12 August 1949 on the protection of victims of war,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling:

(a) Previous resolutions of the General Assembly and the Commission on Human Rights on the subject, most recently Assembly resolution 52/141 of 12 December 1997 and Commission resolution 1997/60 of 16 April 1997;

(b) Security Council resolutions 686 (1991) of 2 March 1991, in which the Council called upon Iraq to release all Kuwaitis and nationals of other States who might still be held in detention; 687 (1991) of 3 April 1991; 688 (1991) of 5 April 1991, in which the Council demanded an end to repression of the Iraqi civilian population and insisted that Iraq cooperate with humanitarian organizations and that the human rights of all Iraqi citizens be respected; and Security Council resolutions 986 (1995) of 14 April 1995; 1111 (1997) of 4 June 1997; 1129 (1997) of 12 September 1997; 1143 (1997) of 4 December 1997 and 1153 (1998) of 20 February 1998 by which the Council authorized States to permit imports of Iraqi oil in order to allow Iraq to purchase humanitarian supplies;

(c) The concluding observations of the Human Rights Committee (CCPR/C/79/Add.4), the Committee on the Elimination of Racial Discrimination (CERD/C/304/Add.28) and the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.17) on Iraq's recent reports to these treaty-monitoring bodies;

1. Welcomes the report on the situation of human rights in Iraq submitted by the Special Rapporteur (E/CN.4/1998/67) and the observations on the general situation, including in the northern region, and the conclusions and recommendations contained therein, and notes his dismay that there has been no improvement in the situation of human rights in the country;

2. Strongly condemns:

(a) The systematic, widespread and extremely grave violations of human rights and of international humanitarian law by the Government of Iraq, resulting in an all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror;

(b) Suppression of freedom of thought, expression, belief, information, association, assembly and movement through fear of arrest, imprisonment and other sanctions, including the death penalty;

(c) Summary and arbitrary executions, including political killings, enforced or involuntary disappearances, routinely practised arbitrary arrests

and detention and consistent and routine failure to respect due process and the rule of law, for example the brutal execution of four Jordanian nationals in December 1997 for minor property offences;

(d) Widespread, systematic torture in its most cruel forms, and the enactment and implementation of decrees prescribing cruel and inhuman punishment as a penalty for offences;

3. Calls upon the Government of Iraq:

(a) To abide by its freely undertaken obligations under international human rights treaties and international humanitarian law and respect and ensure the rights of all individuals, irrespective of their origin, ethnicity, gender or religion, within its territory and subject to its jurisdiction;

(b) To bring the actions of its military and security forces into conformity with the standards of international law, in particular those of the International Covenant on Civil and Political Rights;

(c) To cooperate with United Nations human rights mechanisms, in particular by receiving a return visit by the Special Rapporteur to Iraq and allowing the stationing of human rights monitors throughout Iraq pursuant to the relevant resolutions of the General Assembly and the Commission on Human Rights;

(d) To restore independence of the judiciary and abrogate all laws granting impunity to specified forces or persons killing or injuring individuals for any purpose beyond the administration of justice under the rule of law as prescribed by international standards;

(e) To abrogate all decrees that prescribe cruel and inhuman punishment or treatment, including mutilation, and to ensure that torture and cruel punishment and treatment no longer occur;

(f) To abrogate all laws and procedures, including Revolution Command Council Decree No. 840 of 4 November 1986, that penalize free expression, and to ensure that the genuine will of the people shall be the basis of authority of the State;

(g) To cooperate with the Tripartite Commission to establish the whereabouts and resolve the fate of the remaining several hundred missing persons, including prisoners of war, Kuwaiti nationals and third country nationals, victims of the illegal Iraqi occupation of Kuwait, to cooperate with the Working Group on Enforced or Involuntary Disappearance for that

purpose, and to pay compensation to the families of those who died or disappeared in custody of the Iraqi authorities, through the mechanism established by the Security Council in resolution 692 (1991) of 20 May 1991;

(h) To cease immediately its repressive practices aimed at the Iraqi Kurds in the north, Assyrians, Shi'a, Turkmen, the population of the southern marsh areas, where drainage projects have provoked environmental destruction and a deterioration of the situation of the civilian population, and other ethnic and religious groups;

(i) To put an end without delay to the continuing enforced displacement of persons on discriminatory grounds;

(j) To cooperate with international aid agencies and non-governmental organizations to provide humanitarian assistance and monitoring in the northern and southern areas of the country;

(k) To release immediately all Kuwaitis and nationals of other States who may still be held in detention;

(l) To continue to cooperate in the implementation of Security Council resolutions 986 (1995), 1111 (1997), 1143 (1997) and 1153 (1998) and to continue to facilitate the work of United Nations humanitarian personnel in Iraq by ensuring the free and unobstructed movement of observers throughout the country;

(m) To ensure further equitable distribution without discrimination to the Iraqi population of the humanitarian supplies purchased with the proceeds of Iraqi oil, in implementation of Security Council resolutions 986 (1995), 1111 (1997), 1129 (1997), 1143 (1997), and 1153 (1998) and the memorandum of understanding with the Secretary-General of May 1996 on this issue, and to cooperate further with international humanitarian agencies for the provision without discrimination of relief to those in need throughout Iraq;

(n) To cooperate in the identification of minefields existing throughout Iraq with a view to facilitating their marking and eventual clearing;

4. Decides:

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1991/74 of 6 March 1991 and subsequent resolutions, for a further year, and requests the Special Rapporteur to submit an interim

report on the situation of human rights in Iraq to the General Assembly at its fifty-third session and to report to the Commission at its fifty-fifth session;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully, and to approve the allocation of sufficient human and material resources for the sending of human rights monitors to such locations as would facilitate improved information flow and assessment and help in the independent verification of reports on the situation of human rights in Iraq;

(c) To continue the examination of the situation of human rights in Iraq at its fifty-fifth session under the same agenda item.

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Agenda item 10

QUESTION OF VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Bulgaria*, Canada, Cyprus*, Czech Republic, Denmark, Finland*, France, Germany, Greece*, Hungary*, Italy, Latvia*, Liechtenstein*, Lithuania*, Luxembourg, Netherlands*, Romania*, Slovenia*, Switzerland*, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

1998/... Situation of human rights in Bosnia and Herzegovina, Republic of Croatia and the Federal Republic of Yugoslavia

The Commission on Human Rights,

Recalling all relevant resolutions on this subject, in particular its own resolution 1997/57, of 15 April 1997,

Expressing its full support for the General Framework for Peace in Bosnia and Herzegovina (the "Framework Agreement") and the annexes thereto (together, the "Peace Agreement") which, inter alia, committed the parties in Bosnia and Herzegovina to respect fully human rights, and for the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Reaffirming the territorial integrity of all States in the region, within their internationally recognized borders,

Taking note of the reports of the former Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) - the FRY - together, the countries of the mandate,

Expressing its appreciation for the ongoing important work of the Office of the High Commissioner for Human Rights and its field operation in the region,

I

Introduction

1. Stresses the crucial role that human rights questions have to play in the success of the Peace Agreement and underlines the obligations of the parties under the Framework Agreement to secure for all persons within their jurisdiction the highest level of international norms and standards of human rights and fundamental freedoms;

2. Stresses the need to focus international human rights efforts in the region on the core problems of:

(a) Lack of full respect for the human rights of all individuals, without any distinction;

(b) Return of refugees and displaced persons in safety and in dignity;

(c) Capacity-building in the areas of rule of law and administration of justice;

(d) Lack of respect for the freedom and independence of the media;

(e) Inadequate cooperation with the International Criminal Tribunal for the Former Yugoslavia (the Tribunal);

(f) Missing persons;

3. Appeals to the international community to support such efforts and insists that the parties act to promote and protect democratic institutions of government, the rule of law and effective administration of justice at all levels in their respective countries, to further ensure freedom of expression and of the media, to allow and encourage freedom of association, including with respect to political parties, and to ensure freedom of movement and to foster a culture of respect for human rights;

II

Bosnia and Herzegovina

4. Welcomes progress in some areas towards implementation of the Peace Agreement and towards the improvement in respect for human rights as demonstrated by the important work of the Office of the Federation Ombudsmen, some positive developments in the Republika Srpska since the formation of the new government, the voluntary surrender of persons indicted by the Tribunal, improvement in freedom of movement in some areas, and some refugee returns as well as police restructuring in the Bosnian Federation and parts of the Republika Srpska, increased cooperation with the International Police Task Force and generally full and free access to the territory of Bosnia and Herzegovina for international institutions and organizations, including non-governmental organizations;

5. Also welcomes the work of the Commission on Human Rights for Bosnia and Herzegovina and its two parts, the Office of the Ombudsman and the Human Rights Chamber, and their decisions, and underlines the importance of their intensifying their activities concerning alleged or apparent violations of human rights and alleged or apparent discrimination of any kind;

6. Further welcomes the conclusions of the Peace Implementation Council meetings held in Paris on 14 November 1996, in Sintra, Portugal, on 30 May 1997 and in Bonn on 9 and 10 December 1997;

7. Takes note of the successful holding of countrywide municipal elections on 13 and 14 September 1997 in Bosnia and Herzegovina and of elections for the Republika Srpska Assembly on 22 and 23 November 1997 under the auspices of the Organization for Security and Cooperation in Europe, and insists on full and unconditional implementation of the municipal election results;

8. Emphasizes that the primary responsibility for ensuring the progressive achievement of democratic goals and building a tolerant, multi-ethnic society lies with the people of Bosnia and Herzegovina, in particular through the central Government and the governments of the entities, as well as through, inter alia, religious communities, humanitarian organizations and non-governmental organizations;

9. Reiterates calls in its previous resolutions upon all authorities in Bosnia and Herzegovina concerning:

(a) Bringing legislation into full compliance with the human rights provisions of the Constitution of Bosnia and Herzegovina and implementing this legislation;

(b) Prevention of and accountability for human rights violations;

(c) Full implementation by the authorities of the Republika Srpska and the Federation of existing laws providing amnesty for crimes related to the conflict, other than serious violations of international humanitarian law, and, in the case of the Republika Srpska, the immediate amendment of its law to provide amnesty for persons who avoided conscription or deserted;

(d) Full cooperation with the Commission on Human Rights for Bosnia and Herzegovina and full implementation of its recommendations and decisions, and especially its call to the international community for financial support for the Commission's activities;

(e) Putting an end to beatings, unlawful evictions and other forms of harassment, and the prosecution to the full extent of the law before an independent and impartial tribunal of those identified in the report of the International Police Task Force concerning the incidents in Mostar on 10 February 1997;

(f) The establishment without delay in the Republika Srpska of institutions for the protection of human rights, in particular a human rights ombudsman;

10. Calls upon authorities in Bosnia and Herzegovina:

(a) To complete the reform and restructuring of local police forces under the purview of the International Police Task Force as soon as possible and to ensure that local police forces are trained in and fully respect and protect all human rights;

(b) To reverse the effects of "ethnic cleansing", to allow freedom of movement and the return, especially "minority return", of refugees and displaced persons to their places of origin, to fully implement the concept of "Open Cities" to provide security guarantees for returnees, to cease immediately actions that undermine the right to return, to take immediate steps to repeal legislation which infringes on the right to return and to put an end to practices of discrimination based on ethnic and political grounds,

and calls for the Federation to implement fully the results of the international conference on the return of displaced persons and refugees to Sarajevo, held in Sarajevo on 3 February 1998;

(c) To bring without delay its property and housing legislation fully into line with the proposals of the High Representative and to fully and speedily implement it once adopted;

(d) To repeal laws relating to "abandoned" property, to end illegal evictions of persons from their homes, to reinstate in their homes persons who have been evicted in violation of their rights, to cooperate with and support the work of the Commission for Real Property Claims to resolve outstanding property claims and to implement fully the decisions of that Commission;

(e) To cooperate fully with the Office of the High Representative and institutions established by the Peace Agreement with a view to strengthening free and independent media, to diversifying the media environment, while reminding broadcast media of their special responsibility to observe and promote international standards of journalism, and developing an appropriate legislative framework for the protection of the editorial independence of the media, in particular those under the control of the authorities;

(f) To ensure the necessary conditions for free and fair elections to be held in 1998 under the supervision of the Organization for Security and Cooperation in Europe, and to comply with arbitration decisions regarding recent municipal elections;

(g) To cooperate closely with the International Supervisor for Brcko, and to work towards meeting the conditions of tolerance and pluralism as demanded by the Supervisor in his determination of 15 March 1998;

(h) To work towards reform of criminal law in both entities;

11. Reiterates its calls in its resolution 1997/57 upon the international community concerning supporting all aspects of the work of the International Police Task Force, the return in safety of persons who have left the territory of Bosnia and Herzegovina and full support, including through voluntary contributions, for the Constitutional Court;

III

Republic of Croatia

12. Welcomes the successful completion of the mandate of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, the accession by the Republic of Croatia to the Council of

Europe, the ratification of the European Convention on Human Rights and other relevant human rights instruments by the Government of the Republic of Croatia, and its cooperation with the Special Rapporteur;

13. Also welcomes technical cooperation and assistance programmes planned by the Office of the High Commissioner for Human Rights in consultation with the Government of Croatia, and calls upon the High Commissioner to initiate, at the earliest possible opportunity, projects emphasizing human rights training for professionals involved in law enforcement and the rule of law, as well as human rights education;

14. Calls upon the Government of the Republic of Croatia to undertake greater efforts to adhere to democratic principles and to continue its efforts to attain the highest level of compliance with international norms and standards of human rights and fundamental freedoms and:

(a) To accelerate the implementation of its Programme for Confidence-Building and the normalization of life in the war-affected regions of Croatia, thereby facilitating the expeditious return, in safety and in dignity, of all refugees and displaced persons to their homes in all regions, in particular to the Krajina, to cooperate with the United Nations High Commissioner for Refugees to that end, and to use all available means to secure their safety and to allow continued access to this population by humanitarian organizations;

(b) To respect the human rights, including the property rights, of all legal residents and returning displaced persons and refugees, including ethnic Serbs now found in the Republika Srpska or in the Federal Republic of Yugoslavia, their right to remain, leave or return in safety and dignity, and to enable the restoration of the multi-ethnic character of Eastern Slavonia, Baranja, Western Sirmium and other parts of the Republic of Croatia;

(c) To put an end to harassment of displaced Serbs, looting and physical attacks against Croatian Serbs and to encourage them to stay within the Republic of Croatia and, in particular, to put an end to the involvement by Croatian military and police officials, and to investigate and arrest speedily those responsible for committing or instigating acts of violence and intimidation aimed at driving people away;

(d) To guarantee freedom of association and of the press, including taking concrete steps to establish editorially independent State electronic media and full access by the opposition to State channels and, in particular, to cease harassment of free and independent media;

(e) To extend full cooperation to the international organizations operating in the Republic of Croatia, in particular the Organization for Security and Cooperation in Europe and the United Nations Police Support Group remaining in Eastern Slavonia, Baranja and Western Sirmium, and to heed the advice of the Organization for Security and Cooperation in Europe in matters pertaining to its mandate;

(f) To respect the right of non-governmental organizations to operate without restrictions;

(g) To pursue, within the context of obligations undertaken to the Council of Europe, the equal application of the law to all citizens, irrespective of ethnicity, religion, or political affiliation, to ensure the swift and complete implementation of judicial decisions, and to implement the European Convention on Human Rights in all governmental practices;

(h) To continue fulfilling the rights and guarantees pledged in its letter of 13 January 1997 (S/1997/27), inter alia the pledge to guarantee representation of Serbs at various levels of local, regional and national government, and to this end to fulfil its obligations to issue citizenship, identity and relevant technical documents to all persons so entitled under Croatian law;

(i) To implement the Amnesty Law enacted on 25 September 1996 fully and fairly;

(j) To continue to cooperate with the Special Rapporteur and to comply with all his recommendations and to cooperate with the Croatian ombudsman;

15. Calls upon the international community:

(a) To support the United Nations Civilian Police remaining in the field in 1998 and also to support the involvement of the High Commissioner in human rights monitoring in the region of Eastern Slavonia, in close cooperation with other international organizations and in close consultation with the Government of Croatia;

(b) To provide for a continued international presence, as recommended by the Special Rapporteur, through support of initiatives advanced by the High Commissioner for Human Rights, the Organization for Security and

Cooperation in Europe, the Council of Europe, the European Community Monitoring Mission and other international organizations, including the programme of technical cooperation envisioned by the Office of the High Commissioner for Human Rights;

IV

Federal Republic of Yugoslavia (Serbia and Montenegro) - the FRY

16. Welcomes cooperation by the FRY with the former Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), Ms. Elisabeth Rehn;

17. Also welcomes the recent visit by the new Special Rapporteur, Mr. Jiri Dienstbier, to the FRY;

18. Further welcomes the deployment of additional human rights officers in Kosovo;

19. Regrets that the FRY has complied only partially with the recommendations of the Chairman in Office of the Organization for Security and Cooperation in Europe regarding fostering democracy and the rule of law;

20. Also regrets the express refusal of the FRY to allow a visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions;

21. Calls upon authorities in the FRY:

(a) To comply with the recommendations contained in the reports of the Special Rapporteur;

(b) To comply also with its obligation to cooperate with the Tribunal;

(c) To undertake substantially greater efforts to strengthen and implement fully democratic norms, especially in regard to respect for the principle of free and fair elections, the rule of law, and full respect for human rights and fundamental freedoms, and to improve its performance in the area of the administration of justice;

(d) To protect and expand opportunities for free and independent media, institute non-partisan management of the State-owned media and cease efforts to restrict press and broadcast journalism;

(e) To put an end to torture and ill-treatment of persons in detention as described in the reports of the Special Rapporteur, and to bring those responsible to justice;

(f) To repeal the 1989 Law on Special Conditions for Real Property Transactions and to apply all other legislation without discrimination;

(g) To respect the rights of persons belonging to minority groups, especially in Sandjak and Vojvodina, and of persons belonging to the Bulgarian and Croatian minorities;

22. Condemns violent repression of non-violent expression of political views in Kosovo, in particular the recent brutal police actions as well as the excessive use of force against the civilian population, including demonstrators and journalists among the Albanian population, condemns as well the killing of innocent civilians, equally condemns terrorism in all its forms and from any quarter, and underscores the grave concern of Member States regarding the increasingly serious situation there;

23. Urges all parties in the FRY to act with the utmost restraint and with full respect for human rights, and to refrain from acts of violence;

24. Insists that the Government of the FRY:

(a) Take immediate action, in view of the deteriorating situation in Kosovo and the danger of escalating violence there, to put an end to the continuing repression of and prevent violence against the ethnic Albanian population, as well as other communities living in Kosovo, including acts of harassment, beatings, brutality, torture, warrantless searches, arbitrary detention, unfair trials and arbitrary, unjustified evictions and dismissals;

(b) Ensure the complete withdrawal of its special police from Kosovo;

(c) Release all political detainees, allow the return in safety and dignity of ethnic Albanian refugees to Kosovo and respect fully all human rights and fundamental freedoms, including freedom of the press, freedom of movement and freedom from discrimination in the field of education and information and, in particular, improve the situation of ethnic Albanian women and children;

(d) Allow the establishment of democratic institutions in Kosovo;

(e) Agree to the establishment of an office of the High Commissioner for Human Rights in Pristina;

(f) Broaden cooperation with other regional and international actors, including by allowing the return of the long-term mission of the Organization for Security and Cooperation in Europe, visits by the personal representative of the Chairman in Office of the Organization for Security and Cooperation in Europe and the establishment of a European Union presence in Kosovo;

(g) Implement the September 1996 memorandum of understanding on education in Kosovo immediately and without conditions, including at the university level, as an important first step towards reducing regional tensions, while welcoming efforts made in that regard;

25. Emphasizes the importance of a substantive, unconditional dialogue between authorities in Belgrade and the Kosovo Albanian leadership aimed at achieving a lasting resolution to the problems of Kosovo consistent with the territorial integrity of the FRY, and notes the proposals made by the Government of the FRY in that direction;

26. Also emphasizes that improvements in the promotion and protection of human rights and political freedoms in Kosovo and the rest of its territory as well as cooperation with the Tribunal will assist the FRY to improve relations with the international community;

27. Welcomes positive developments in Montenegro, including in the areas of freedom of the media and the treatment of ethnic minorities, and also welcomes the formation of a multi-ethnic coalition government;

28. Calls upon the international community:

(a) To establish appropriate safeguards to ensure the security and fair treatment upon return of those who sought temporary protection and asylum, including appropriate measures by Governments, such as legal guarantees and follow-up mechanisms, to allow those persons to return to their homes in the FRY in safety and dignity;

(b) To continue to support existing national democratic forces and non-governmental organizations in their efforts to build a civil society and achieve multi-party democracy in the FRY;

V

International Criminal Tribunal for the Former Yugoslavia

29. Calls upon all States and, in particular, all parties to the Peace Agreement, especially the Government of the FRY, to meet their obligations to cooperate fully with the Tribunal, noting that there is no valid constitutional or statutory reason for failure to cooperate, and urges all States and the Secretary-General to support the Tribunal to the fullest extent possible, in particular by helping to ensure that persons indicted by the Tribunal stand trial before it and, as a matter of urgency, by continuing to make available to the Tribunal adequate resources to aid in the fulfilment of its mandate, including through the provision of legal and technical expertise;

30. Welcomes the decision by the Prime Minister of the Republika Srpska to allow the Tribunal to open an office in Banja Luka and urges the government of the Republika Srpska to follow through on promises to improve cooperation with the Tribunal;

31. Also welcomes in this context the decision by four persons indicted by the Tribunal who are residents of the Republika Srpska to surrender voluntarily to the custody of the Tribunal as required by the Peace Agreement, and calls upon all indicted persons to do likewise;

32. Calls upon authorities in the FRY to comply with their obligation to cooperate with the Tribunal, including with regard to events in Kosovo, on the basis of Security Council resolution 1160 (1998), and strongly recommends that the Office of the Prosecutor of the Tribunal begin gathering information relating to the violence in Kosovo that may fall within its jurisdiction;

33. Notes that the authorities of Bosnia and Herzegovina have in general respected the "rules of the road" agreed in Rome on 18 February 1996 by arresting or detaining only those war crimes suspects sought by the Tribunal, by notification after arrest, and prompt release, if the person is not sought by the Tribunal, by submitting all cases involving suspected war crimes to the Tribunal for review prior to prosecution by national courts and by facilitating access to detainees by the Tribunal and other monitors and representatives of non-governmental organizations, and urges all parties to the Peace Agreement to do the same, including through submission of cases to the Prosecutor of the Tribunal under the "rules of the road";

34. Urgently calls once again upon competent authorities in Bosnia and Herzegovina, including those of the Federation and in particular in the Republika Srpska, and the Governments of the Republic of Croatia and the FRY to apprehend and surrender for prosecution, as required by Security Council resolution 827 (1993) and the statement by the President of the Security Council on 8 May 1996, all persons indicted by the Tribunal and notes that the large majority of those indicted, including Radovan Karadzic and Ratko Mladic, appear to be living in the Republika Srpska or the FRY;

35. Calls upon the international community to give the Tribunal every appropriate help to bring into custody suspects indicted by it;

VI

Missing persons

36. Calls upon all parties to treat the subject of missing persons as an urgent humanitarian problem, to make full disclosure of available information to the Working Group on Missing Persons Chaired by the International Committee of the Red Cross, and to abandon the principle of reciprocity in dealing with this question;

37. Endorses in this regard the recent efforts of the International Commission on Missing Persons in the Former Yugoslavia and requests that the International Commission continue its efforts to provide essential supplies for the Bosnian exhumation process, to provide resources and organizational support for families and family associations of the missing in the region, to support the forensic efforts of non-governmental organizations and bring the concerns of families to the attention of the political leadership of all three countries;

38. Commends the International Commission for securing the release in August 1997 of 16 prisoners of war held by the Republic of Croatia and for obtaining from the FRY all 1,200 Vukovar death protocols for the Republic of Croatia;

39. Also commends Serb, Croat and Bosniac leaders for restarting the joint exhumation process chaired by the Office of the High Representative;

40. Specifically calls upon the parties:

(a) To immediately release any individuals held as a result of, or in relation to any conflict between or among them (so-called "hidden detainees"), to provide information on specific lists of detainees unaccounted for and presented to the relevant authorities by the International Committee of the Red Cross, and to allow unannounced visits to actual or alleged places of detention in order to investigate allegations transmitted to international actors by families of the missing;

(b) To resume and expand the joint exhumation process in Bosnia and Herzegovina under the auspices of the Office of the High Representative as soon as possible;

(c) To comply with their obligations to investigate enforced disappearances and support the relevant international actors dealing with this issue, including the Working Group of the International Committee of the Red

Cross, and exhorts State commissions on missing persons, as well as Bosniac, Croat and Serb commissions in Bosnia and Herzegovina, to intensify joint work and to cooperate with exhumations;

41. Calls upon the Government of the Republic of Croatia to turn over all relevant material on missing persons, and specifically to transfer relevant documentation on its actions relating to its 1995 "Flash" and "Storm" operations to the International Committee of the Red Cross and the International Commission on Missing Persons;

42. Calls upon the Bosnian Serb authorities to support the reconciliation process by reaching out to family associations from all ethnic groups and to allow burial of remains in the Srebrenica area;

43. Stresses the necessity of close coordination on the issue between relevant international organizations and welcomes the commitments made by the Office of the High Representative to give priority to the question of missing persons, in particular by taking active steps to ensure that excavations and exhumations are carried out to the fullest extent possible;

44. Calls upon the international community:

(a) To provide the appropriate financial, personnel and logistical resources to the International Commission on Missing Persons and the Office of the High Representative to support the exhumation and identification process and provide support to family associations in all three countries so that they can resolve the question of missing persons and accomplish their tasks without delay;

(b) To ensure that excavations and exhumations of mortal remains are undertaken in conformity with internationally accepted practice;

VII

Special Rapporteur

45. Expresses its appreciation to the former Special Rapporteur, Ms. Elisabeth Rehn, for the positive impact her work has had on the enjoyment of human rights in the countries of her mandate;

46. Takes note with appreciation of the reports of the special rapporteurs (E/CN.4/1998/9, 12, 13, 14, 15, 63 and 164);

47. Decides to renew the mandate of the Special Rapporteur for one year and welcomes the appointment of a new Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro);

48. Requests the new Special Rapporteur, in addition to the activities mandated in its resolutions 1994/72, 1996/71 and 1997/57:

(a) To work with the High Commissioner for Human Rights on behalf of the United Nations in dealing with the question of missing persons, including by participation in the International Commission on Missing Persons advisory group and other groups involved in missing persons issues, such as those chaired by the Office of the High Representative and the International Committee of the Red Cross, and to include in his report to the Commission information about activities concerning missing persons in the former Yugoslavia;

(b) To pay particular attention to the situation of persons belonging to ethnic minorities and displaced persons, refugees and returnees who fall within his mandate;

(c) To address human rights issues that transcend the borders between the States covered by his mandate and which can be addressed only through concerted action in more than one country;

49. Requests that the Special Rapporteur carry out missions to:

(a) Bosnia and Herzegovina;

(b) The Republic of Croatia, including Eastern Slavonia, Baranja and Western Sirmium;

(c) The Federal Republic of Yugoslavia (Serbia and Montenegro), including to Kosovo, as well as to Sandjak and Vojvodina;

50. Requests the Special Rapporteur to report to the Commission, at its fifty-fifth session, on the work carried out in fulfilment of his mandate and to present interim reports to the General Assembly at its fifty-third session;

51. Requests the Secretary-General to continue to make the Special Rapporteur's reports available to the Security Council and to the Organization for Security and Cooperation in Europe;

52. Urges the Secretary-General, within existing resources, to make all necessary resources available for the Special Rapporteur to carry out his mandate successfully and, in particular, to provide him with adequate staff based in those territories to ensure effective continuous monitoring of the human rights situation in the countries of the mandate and coordination with other international organizations involved.

UNITED
NATIONS

E

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COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Agenda item 10

QUESTION OF VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Bulgaria*, Canada, Cyprus*, Czech Republic, Denmark, Finland*, France, Germany, Greece*, Hungary*, Italy, Latvia*, Liechtenstein*, Lithuania*, Luxembourg, Netherlands*, Romania*, Slovenia*, Switzerland*, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

1998/... Situation of human rights in Bosnia and Herzegovina, Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)

The Commission on Human Rights,

Recalling all relevant resolutions on this subject, in particular its own resolution 1997/57, of 15 April 1997,

Expressing its full support for the General Framework for Peace in Bosnia and Herzegovina (the "Framework Agreement") and the annexes thereto (together, the "Peace Agreement") which, inter alia, committed the parties in Bosnia and Herzegovina to respect fully human rights, and for the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Reaffirming the territorial integrity of all States in the region, within their internationally recognized borders,

Taking note of the reports of the former Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) - the FRY - together, the countries of the mandate,

Expressing its appreciation for the ongoing important work of the Office of the High Commissioner for Human Rights and its field operation in the region,

I

Introduction

1. Stresses the crucial role that human rights questions have to play in the success of the Peace Agreement and underlines the obligations of the parties under the Framework Agreement to secure for all persons within their jurisdiction the highest level of international norms and standards of human rights and fundamental freedoms;

2. Stresses the need to focus international human rights efforts in the region on the core problems of:

(a) Lack of full respect for the human rights of all individuals, without any distinction;

(b) Return of refugees and displaced persons in safety and in dignity;

(c) Capacity-building in the areas of rule of law and administration of justice;

(d) Lack of respect for the freedom and independence of the media;

(e) Inadequate cooperation with the International Criminal Tribunal for the Former Yugoslavia (the Tribunal);

(f) Missing persons;

3. Appeals to the international community to support such efforts and insists that the parties act to promote and protect democratic institutions of government, the rule of law and effective administration of justice at all levels in their respective countries, to further ensure freedom of expression and of the media, to allow and encourage freedom of association, including with respect to political parties, and to ensure freedom of movement and to foster a culture of respect for human rights;

II

Bosnia and Herzegovina

4. Welcomes progress in some areas towards implementation of the Peace Agreement and towards the improvement in respect for human rights as demonstrated by the important work of the Office of the Federation Ombudsmen, some positive developments in the Republika Srpska since the formation of the new government, the voluntary surrender of persons indicted by the Tribunal, improvement in freedom of movement in some areas, police restructuring in the Bosnian Federation and parts of the Republika Srpska, increased cooperation with the International Police Task Force and generally full and free access to the territory of Bosnia and Herzegovina for international institutions and organizations, including non-governmental organizations;

5. Also welcomes the work of the Commission on Human Rights for Bosnia and Herzegovina and its two parts, the Office of the Ombudsman and the Human Rights Chamber, and their decisions, and underlines the importance of their intensifying their activities concerning alleged or apparent violations of human rights and alleged or apparent discrimination of any kind;

6. Further welcomes the conclusions of the Peace Implementation Council meetings held in Paris on 14 November 1996, in Sintra, Portugal, on 30 May 1997 and in Bonn on 9 and 10 December 1997;

7. Takes note of the successful holding of countrywide municipal elections on 13 and 14 September 1997 in Bosnia and Herzegovina and of elections for the Republika Srpska Assembly on 22 and 23 November 1997 under the auspices of the Organization for Security and Cooperation in Europe, and calls for full and unconditional implementation of the municipal election results;

8. Emphasizes that the primary responsibility for ensuring the progressive achievement of democratic goals and building a tolerant, multi-ethnic society lies with the people of Bosnia and Herzegovina, in particular through the central Government and the governments of the entities, as well as through, inter alia, religious communities, humanitarian organizations and non-governmental organizations;

9. Reiterates calls in its previous resolutions upon all authorities in Bosnia and Herzegovina concerning:

(a) Bringing legislation into full compliance with the human rights provisions of the Constitution of Bosnia and Herzegovina and implementing this legislation;

(b) Prevention of and accountability for human rights violations;

(c) Full implementation by the authorities of the Republika Srpska and the Federation of existing laws providing amnesty for crimes related to the conflict, other than serious violations of international humanitarian law, and, in the case of the Republika Srpska, the immediate amendment of its law to provide amnesty for persons who avoided conscription or deserted;

(d) Full cooperation with the Commission on Human Rights for Bosnia and Herzegovina and full implementation of its recommendations and decisions, and especially to fulfil their obligations to provide financial support for the Commission's activities;

(e) Putting an end to beatings, unlawful evictions and other forms of harassment, and the prosecution to the full extent of the law before an independent and impartial tribunal of those identified in the report of the International Police Task Force concerning the incidents in Mostar on 10 February 1997;

(f) The establishment without delay in the Republika Srpska of institutions for the protection of human rights, in particular a human rights ombudsman;

10. Calls upon authorities in Bosnia and Herzegovina:

(a) To complete the reform and restructuring of local police forces under the purview of the International Police Task Force as soon as possible and to ensure that local police forces are trained in and fully respect and protect all human rights;

(b) To reverse the effects of "ethnic cleansing", to allow freedom of movement and the return, especially "minority return", of refugees and displaced persons to their places of origin, to fully implement the concept of "Open Cities" to provide security guarantees for returnees, to cease immediately actions that undermine the right to return, to take immediate steps to repeal legislation which infringes on the right to return and to put an end to practices of discrimination based on ethnic and political grounds, and calls for the Federation to implement fully the results of the international conference on the return of displaced persons and refugees to Sarajevo, held in Sarajevo on 3 February 1998;

(c) To bring without delay property and housing legislation at all levels fully into line with the proposals of the High Representative and to fully and speedily implement it once adopted;

(d) To repeal laws relating to "abandoned" property, to end illegal evictions of persons from their homes, to reinstate in their homes persons who have been evicted in violation of their rights, to cooperate with and support the work of the Commission for Real Property Claims to resolve outstanding property claims and to implement fully the decisions of that Commission;

(e) To cooperate fully with the Office of the High Representative and institutions established by the Peace Agreement with a view to strengthening free and independent media, to diversifying the media environment, while reminding broadcast media of their special responsibility to observe and promote international standards of journalism, and developing an appropriate legislative framework for the protection of the editorial independence of the media, in particular those under the control of the authorities;

(f) To ensure the necessary conditions for free and fair elections to be held in 1998 under the supervision of the Organization for Security and Cooperation in Europe, and to comply with arbitration decisions regarding recent municipal elections;

(g) To cooperate closely with the International Supervisor for Brcko, and to work towards meeting the conditions of tolerance and pluralism as stressed by the Presiding Arbitrator in his decision of 15 March 1998;

(h) To work towards reform of criminal law in both entities;

11. Reiterates its calls in its resolution 1997/57 upon the international community concerning supporting all aspects of the work of the International Police Task Force, the return in safety of persons who have left the territory of Bosnia and Herzegovina and full support, including through voluntary contributions, for the Constitutional Court;

III

Republic of Croatia

12. Welcomes the successful completion of the mandate of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, the accession by the Republic of Croatia to the Council of Europe, the ratification of the European Convention on Human Rights and other relevant human rights instruments by the Government of the Republic of Croatia, and its cooperation with the Special Rapporteur;

13. Also welcomes technical cooperation and assistance programmes planned by the Office of the High Commissioner for Human Rights in consultation with the Government of Croatia, and calls upon the High

Commissioner to initiate, at the earliest possible opportunity, projects emphasizing human rights training for professionals involved in law enforcement and the rule of law, as well as human rights education;

14. Calls upon the Government of the Republic of Croatia to undertake greater efforts to adhere to democratic principles and to continue its efforts to attain the highest level of compliance with international norms and standards of human rights and fundamental freedoms and:

(a) To accelerate the implementation of its Programme for Confidence-Building and the normalization of life in the war-affected regions of Croatia, thereby facilitating the expeditious return, in safety and in dignity, of all refugees and displaced persons to their homes in all regions, in particular to the Krajina, to cooperate with the United Nations High Commissioner for Refugees to that end, and to use all available means to secure their safety and to allow continued access to this population by humanitarian organizations;

(b) To respect the human rights, including the property rights, of all, including in particular returning displaced persons and refugees, including ethnic Serbs now present in the Republika Srpska or the FRY, their right to remain, leave or return in safety and dignity, and to enable the restoration of the multi-ethnic character of Eastern Slavonia, Baranja, Western Sirmium and other parts of the Republic of Croatia;

(c) To put an end to harassment of displaced Serbs, looting and physical attacks against Croatian Serbs and to encourage them to stay within the Republic of Croatia and, in particular, to put an end to the involvement by Croatian military and police officials in such incidents, and to investigate and arrest speedily those responsible for committing or instigating acts of violence and intimidation aimed at driving people away;

(d) To guarantee freedom of association and of the press, including taking concrete steps to establish editorially independent State electronic media and full access by the opposition to State channels and, in particular, to cease harassment of free and independent media;

(e) To extend full cooperation to the international organizations operating in the Republic of Croatia, in particular the Organization for Security and Cooperation in Europe and the United Nations Police Support Group remaining in Eastern Slavonia, Baranja and Western Sirmium, and to heed the advice of the Organization for Security and Cooperation in Europe in matters pertaining to its mandate;

(f) To respect the right of non-governmental organizations to operate without restrictions;

(g) To pursue, within the context of obligations undertaken to the Council of Europe, the equal application of the law to all citizens, irrespective of ethnicity, religion, or political affiliation, to ensure the swift and complete implementation of judicial decisions, and to implement the European Convention on Human Rights in all governmental practices;

(h) To continue fulfilling the rights and guarantees pledged in its letter of 13 January 1997 (S/1997/27), inter alia the pledge to guarantee representation of Serbs at various levels of local, regional and national government, and to this end to fulfil its obligations to issue citizenship, identity and relevant technical documents to all persons so entitled under Croatian law;

(i) To implement the Amnesty Law enacted on 25 September 1996 fully and fairly;

(j) To continue to cooperate with the Special Rapporteur and to comply with all his recommendations and to cooperate with the Croatian ombudsman;

15. Calls upon the international community:

(a) To support the United Nations Civilian Police remaining in the field in 1998 and also to support the involvement of the High Commissioner in human rights monitoring in the region of Eastern Slavonia, in close cooperation with other international organizations and in close consultation with the Government of Croatia;

(b) To provide for a continued international presence, as recommended by the Special Rapporteur, through support of initiatives advanced by the High Commissioner for Human Rights, the Organization for Security and Cooperation in Europe, the Council of Europe, the European Community Monitoring Mission and other international organizations, including the programme of technical cooperation envisioned by the Office of the High Commissioner for Human Rights;

IV

Federal Republic of Yugoslavia (Serbia and Montenegro) - the FRY

16. Welcomes cooperation by the FRY with the former Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), Ms. Elisabeth Rehn;

17. Also welcomes the recent visit by the new Special Rapporteur, Mr. Jiri Dienstbier, to the FRY;

18. Further welcomes the deployment of additional human rights officers in Kosovo;

19. Endorses the recommendations of the Special Rapporteur as contained in his report on his visit to the FRY, including Kosovo, in particular that:

(a) The FRY should permit forensic investigation by independent experts concerning the 28 February operations in Likosani and Cirez and the 5 March operations in Prekaz, and should also conduct its own investigation of these events;

(b) That the Kosovo Albanian leadership should commit itself to ensure that the Kosovo Albanian community shall pursue their goals only by peaceful means;

(c) That all parties should allow free access for international and humanitarian organizations and the establishment of a temporarily expanded office of the High Commissioner for Human Rights operating out of the permanent premises to be established in Kosovo;

20. Regrets that the FRY has complied only partially with the recommendations of the Chairman in Office of the Organization for Security and Cooperation in Europe regarding fostering democracy and the rule of law;

21. Also regrets the express refusal of the FRY to allow a visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions;

22. Calls upon authorities in the FRY:

(a) To comply with the recommendations contained in the reports of the Special Rapporteur;

(b) To comply also with its obligation to cooperate with the Tribunal;

(c) To undertake substantially greater efforts to strengthen and implement fully democratic norms, especially in regard to respect for the principle of free and fair elections, the rule of law, and full respect for human rights and fundamental freedoms, and to improve its performance in the area of the administration of justice;

(d) To protect and expand opportunities for free and independent media, institute non-partisan management of the State-owned media and cease efforts to restrict press and broadcast journalism;

(e) To put an end to torture and ill-treatment of persons in detention as described in the reports of the Special Rapporteur, and to bring those responsible to justice;

(f) To repeal the 1989 Law on Special Conditions for Real Property Transactions and to apply all other legislation without discrimination;

(g) To respect the rights of persons belonging to minority groups, especially in Sandjak and Vojvodina, and of persons belonging to the Bulgarian and Croatian minorities;

23. Condemns violent repression of non-violent expression of political views in Kosovo, in particular the brutal police actions as well as the excessive use of force against the civilian population, including demonstrators and journalists among the Albanian population, condemns as well the killing of innocent civilians, equally condemns terrorism in all its forms and from any quarter, and underscores the grave concern of Member States regarding the increasingly serious situation there;

24. Urges all parties in the FRY to act with the utmost restraint and with full respect for human rights, and to refrain from acts of violence;

25. Insists that the Government of the FRY:

(a) Take immediate action, in view of the deteriorating situation in Kosovo and the danger of escalating violence there, to put an end to the continuing repression of and prevent violence against the ethnic Albanian population, as well as other communities living in Kosovo, including acts of harassment, beatings, brutality, torture, warrantless searches, arbitrary detention, unfair trials and arbitrary, unjustified evictions and dismissals;

(b) Ensure the complete withdrawal of its special police from Kosovo;

(c) Release all political detainees, allow the return in safety and dignity of ethnic Albanian refugees to Kosovo and respect fully all human rights and fundamental freedoms, including freedom of the press, freedom of movement and freedom from discrimination in the field of education and information and, in particular, improve the situation of ethnic Albanian women and children;

(d) Allow the establishment of democratic institutions in Kosovo;

(e) Agree to the establishment of an office of the High Commissioner for Human Rights in Pristina;

(f) Broaden cooperation with other regional and international actors, including by allowing the return of the long-term missions of the Organization

for Security and Cooperation in Europe, visits by the personal representative of the Chairman in Office of the Organization for Security and Cooperation in Europe and the establishment of a European Union presence in Kosovo;

(g) Implement the September 1996 memorandum of understanding on education in Kosovo immediately and without conditions, including at the university level, as an important first step towards reducing regional tensions, while welcoming efforts made in that regard;

26. Emphasizes the importance of a substantive, unconditional dialogue between authorities in Belgrade and the Kosovo Albanian leadership aimed at achieving a lasting resolution to the problems of Kosovo consistent with the territorial integrity of the FRY, and notes the proposals made by the Government of the FRY in that direction;

27. Also emphasizes that improvements in the promotion and protection of human rights and political freedoms in Kosovo and the rest of its territory as well as cooperation with the Tribunal will assist the FRY to improve relations with the international community;

28. Welcomes positive developments in Montenegro, including in the areas of freedom of the media and the treatment of ethnic minorities, and also welcomes the formation of a multi-ethnic coalition government;

29. Calls upon the international community:

(a) To establish appropriate safeguards to ensure the security and fair treatment upon return of those who sought temporary protection and asylum, including appropriate measures by Governments, such as legal guarantees and follow-up mechanisms, to allow those persons to return to their homes in the FRY in safety and dignity;

(b) To continue to support existing national democratic forces and non-governmental organizations in their efforts to build a civil society and achieve multi-party democracy in the FRY;

V

International Criminal Tribunal for the Former Yugoslavia

30. Calls upon all States and, in particular, all parties to the Peace Agreement, especially the Government of the FRY, to meet their obligations to cooperate fully with the Tribunal, noting that there is no valid constitutional or statutory reason for failure to cooperate, and urges all States and the Secretary-General to support the Tribunal to the fullest extent possible, in particular by helping to ensure that persons indicted by the

Tribunal stand trial before it and, as a matter of urgency, by continuing to make available to the Tribunal adequate resources to aid in the fulfilment of its mandate, including through the provision of legal and technical expertise;

31. Welcomes the decision by the Prime Minister of the Republika Srpska to allow the Tribunal to open an office in Banja Luka and urges the government of the Republika Srpska to follow through on promises to improve cooperation with the Tribunal;

32. Also welcomes in this context the decision by four persons indicted by the Tribunal who are residents of the Republika Srpska to surrender voluntarily to the custody of the Tribunal as required by the Peace Agreement, and calls upon all indicted persons to do likewise;

33. Calls upon authorities in the FRY to comply with their obligation to cooperate with the Tribunal, including with regard to events in Kosovo, on the basis of Security Council resolution 1160 (1998), and strongly recommends that the Office of the Prosecutor of the Tribunal begin gathering information relating to the violence in Kosovo that may fall within its jurisdiction;

34. Notes that the authorities of Bosnia and Herzegovina have in general respected the "rules of the road" agreed in Rome on 18 February 1996 by arresting or detaining only those war crimes suspects sought by the Tribunal, by submitting all cases involving suspected war crimes to the Tribunal for review prior to prosecution by national courts and by facilitating access to detainees by the Tribunal and other monitors and representatives of non-governmental organizations, and urges all parties to the Peace Agreement to do the same, including through submission of cases to the Prosecutor of the Tribunal under the "rules of the road";

35. Urgently calls once again upon competent authorities in Bosnia and Herzegovina, including those of the Federation and in particular in the Republika Srpska, and the Governments of the Republic of Croatia and the FRY to apprehend and surrender for prosecution, as required by Security Council resolution 827 (1993) and the statement by the President of the Security Council on 8 May 1996, all persons indicted by the Tribunal and notes that the large majority of those indicted, including Radovan Karadzic and Ratko Mladic, appear to be living in the Republika Srpska or the FRY;

36. Calls upon the international community to give the Tribunal every appropriate help to bring into custody suspects indicted by it;

VI

Missing persons

37. Calls upon all parties to treat the subject of missing persons as an urgent humanitarian problem, to make full disclosure of available information to the Working Group on Missing Persons Chaired by the International Committee of the Red Cross, and to abandon the principle of reciprocity in dealing with this question;

38. Endorses in this regard the recent efforts of the International Commission on Missing Persons in the Former Yugoslavia and requests that the International Commission continue and intensify its efforts to provide essential supplies for the Bosnian exhumation process, to provide resources and organizational support for families and family associations of the missing in the region, to support the forensic efforts of non-governmental organizations and bring the concerns of families to the attention of the political leadership of all three countries;

39. Commends the International Commission for securing the release in August 1997 of 16 prisoners of war held by the Republic of Croatia and for obtaining from the FRY all 1,200 Vukovar death protocols for the Republic of Croatia;

40. Also commends Serb, Croat and Bosniac leaders for restarting the joint exhumation process chaired by the Office of the High Representative;

41. Specifically calls upon the parties:

(a) To immediately release any individuals held as a result of, or in relation to any conflict between or among them (so-called "hidden detainees"), to provide information on specific lists of detainees unaccounted for and presented to the relevant authorities by the International Committee of the Red Cross, and to allow unannounced visits to actual or alleged places of detention in order to investigate allegations transmitted to international actors by families of the missing;

(b) To resume and expand the joint exhumation process in Bosnia and Herzegovina under the auspices of the Office of the High Representative as soon as possible, and to refrain from compromising mass grave sites or destroying forensic evidence;

(c) To comply with their obligations to investigate enforced disappearances and support the relevant international actors dealing with this issue, including the Working Group of the International Committee of the

Red Cross, and exhorts State commissions on missing persons, as well as Bosniac, Croat and Serb commissions in Bosnia and Herzegovina, to intensify joint work and to cooperate with exhumations;

42. Calls upon the Government of the Republic of Croatia to turn over all relevant material on missing persons, and specifically to transfer relevant documentation on its actions relating to its 1995 "Flash" and "Storm" operations to the International Committee of the Red Cross and the International Commission on Missing Persons;

43. Calls upon the Bosnian Serb authorities to support the reconciliation process by reaching out to family associations from all ethnic groups and to allow burial of remains in the Srebrenica area;

44. Stresses the necessity of close coordination on the issue between relevant international organizations and welcomes the commitments made by the Office of the High Representative to give priority to the question of missing persons, in particular by taking active steps to ensure that excavations and exhumations are carried out to the fullest extent possible;

45. Calls upon the international community:

(a) To provide the appropriate financial, personnel and logistical resources to the International Commission on Missing Persons and the Office of the High Representative to support the exhumation and identification process and provide support to family associations in all three countries so that they can resolve the question of missing persons and accomplish their tasks without delay;

(b) To ensure that excavations and exhumations of mortal remains are undertaken in conformity with internationally accepted practice;

VII

Special Rapporteur

46. Expresses its appreciation to the former Special Rapporteur, Ms. Elisabeth Rehn, for the positive impact her work has had on the enjoyment of human rights in the countries of her mandate;

47. Takes note with appreciation of the reports of the special rapporteurs (E/CN.4/1998/9, 12, 13, 14, 15, 63 and 164);

48. Decides to renew the mandate of the Special Rapporteur for one year and welcomes the appointment of a new Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro);

49. Requests the new Special Rapporteur, in addition to the activities mandated in its resolutions 1994/72, 1996/71 and 1997/57:

(a) To work with the High Commissioner for Human Rights on behalf of the United Nations in dealing with the question of missing persons, including by participation in the International Commission on Missing Persons advisory group and other groups involved in missing persons issues, such as those chaired by the Office of the High Representative and the International Committee of the Red Cross, and to include in his report to the Commission information about activities concerning missing persons in the former Yugoslavia;

(b) To pay particular attention to the situation of persons belonging to ethnic minorities and displaced persons, refugees and returnees who fall within his mandate;

(c) To address human rights issues that transcend the borders between the States covered by his mandate and which can be addressed only through concerted action in more than one country;

50. Requests that the Special Rapporteur carry out missions to:

(a) Bosnia and Herzegovina;

(b) The Republic of Croatia, including Eastern Slavonia, Baranja and Western Sirmium;

(c) The Federal Republic of Yugoslavia (Serbia and Montenegro), including to Kosovo, as well as to Sandjak and Vojvodina;

51. Requests the Special Rapporteur to report to the Commission, at its fifty-fifth session, on the work carried out in fulfilment of his mandate and to present interim reports to the General Assembly at its fifty-third session;

52. Requests the Secretary-General to continue to make the Special Rapporteur's reports available to the Security Council and to the Organization for Security and Cooperation in Europe;

53. Urges the Secretary-General, within existing resources, to make all necessary resources available for the Special Rapporteur to carry out his mandate successfully and, in particular, to provide him with adequate staff based in those territories to ensure effective continuous monitoring of the human rights situation in the countries of the mandate and coordination with other international organizations involved.

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E

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COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Argentina, Austria, Brazil, Canada, Chile, Denmark, Haiti*, Honduras*, Hungary*, Ireland, Italy, Japan, Netherlands*, Norway*, Poland, Romania*, Sweden*, Switzerland*, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay: draft resolution

1998/... Cooperation with representatives of United Nations human rights bodies

The Commission on Human Rights,

Reiterating its concern at the continued reports of intimidation and reprisals against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies,

Also concerned at reports about incidents where private individuals have been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling in resolutions 1990/76 of 7 March 1990, 1991/70 and 6 March 1991, 1992/59 of 3 March 1992, 1993/64 of 10 March 1993, 1994/70 of 9 March 1994, 1995/75 of 8 March 1995, 1996/70 of 23 April 1996 and 1997/56 of 15 April 1997, and taking note of the report of the Secretary-General on the question (E/CN.4/1998/57),

1. Urges Governments to refrain from all acts of intimidation or reprisal against:

(a) Those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them;

(b) Those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose;

(c) Those who submit or have submitted communications under procedures established by human rights instruments;

(d) Those who are relatives of victims of human rights violations;

2. Requests all representatives of United Nations human rights bodies, as well as treaty bodies monitoring the observance of human rights, to continue to take urgent steps, in conformity with their mandates, to help prevent the hampering of access to United Nations human rights procedures in any way;

3. Also requests all representatives of United Nations human rights bodies, as well as treaty bodies monitoring the observance of human rights, to continue to take urgent steps, in conformity with their mandates, to help prevent the occurrence of such intimidation and reprisals;

4. Further requests such representatives and treaty bodies to continue to include in their respective reports to the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities or the General Assembly a reference to allegations of intimidation or reprisal and of hampering of access to United Nations human rights procedures, as well as an account of action taken by them in this regard;

5. Requests the Secretary-General to draw the attention of such representatives and treaty bodies to the present resolution;

6. Invites the Secretary-General to submit to the Commission at its fifty-fifth session a report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against those referred to in paragraph 1 above;

7. Decides to consider the question again at its fifty-fifth session.

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COMMISSION ON HUMAN RIGHTS
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Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Australia*, Belgium*, Bulgaria*, Canada, Czech Republic, Denmark, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Italy, Japan, Latvia*, Liechtenstein*, Luxembourg, Norway*, Portugal*, Romania*, Slovakia*, Spain*, United Kingdom of Great Britain and Northern Ireland, United States of America: draft resolution

1998/... Situation of human rights in the Sudan

The Commission on Human Rights,

Reaffirming the solemn commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights and international law,

Recalling General Assembly resolution 52/140 of 12 December 1997 and its own resolution 1997/59 of 15 April 1997 on the situation of human rights in the Sudan,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Realizing the urgent need for implementing effective measures, nationally, regionally and internationally, to protect the civilian population, especially persons belonging to minorities, women and children, in the Sudan and northern Uganda from the effects of armed conflict,

Noting with deep concern continuing reports of grave human rights abuses and violations in the Sudan as noted in its resolution 1997/59, including detentions without trial, forced displacement of persons and torture, as described in, inter alia, numerous reports submitted to the General Assembly and the Commission on Human Rights,

Greatly disturbed by reports that these practices have frequently been carried out by agents under government authority or take place with the knowledge of the Government of the Sudan,

Taking note of efforts reported by the Government of the Sudan to investigate such activities and practices as urged by the General Assembly in resolution 52/140,

Pleased at the invitations extended by the Government of the Sudan to the Special Rapporteur on the situation of human rights in the Sudan and the Special Rapporteurs on religious intolerance and on freedom of expression and opinion and the Working Group on Contemporary Forms of Slavery, Amnesty International, The Human Rights Committee of the House of Lords of the United Kingdom and the United Nations High Commissioner for Human Rights,

Noting with appreciation the report of the Special Rapporteur on the situation of human rights in the Sudan (E/CN.4/1998/66);

Noting the establishment by the Government of the Sudan of National Committees for Human Rights Education, and encouraging the Office of the High Commissioner for Human Rights to take into consideration requests for assistance by the Government of the Sudan, including assistance to help those committees to improve the observance of human rights in the Sudan,

Welcoming the establishment by the Consultative Council of Human Rights of subcommittees on detentions without trial, arrests, torture and the lack of due process of law; religious persecution; forced displacement and bombardments; extrajudicial killings; access for relief organizations and humanitarian law; slavery and disappearances; the rights of women; the rights of the child; and freedom of expression and peaceful assembly, and expressing the hope that its efforts will positively influence the human rights situation in the Sudan,

Also welcoming the emerging efforts of the Government of the Sudan which are centred on rehabilitating street children and reuniting them with their families,

1. Expresses its deep concern at continued serious human rights violations in the Sudan, including summary executions, extrajudicial killings, arbitrary arrests, detentions without due process, enforced or involuntary disappearances, violations of the rights of women and children, slavery and slavery-like practices, forced displacement of persons and systematic torture, and denial of the freedom of religion, expression, association and peaceful assembly, and emphasizes that it is essential to put an end to violations of human rights in the Sudan;

2. Also expresses its deep concern at the actions by all parties to the conflict, including abduction, trafficking and sale of children, kidnappings, arbitrary detention, forced conscription, indiscriminate killings and forced displacement in the Sudan and neighbouring countries, as well as the failure to safeguard prisoners of war;

3. Expresses its outrage at the use by all parties to the conflict of military force to disrupt or attack relief efforts, and calls again upon the Government of the Sudan and all parties to the conflict to permit international agencies, humanitarian organizations and donor Governments to deliver humanitarian assistance to all war-affected civilians and to cooperate with initiatives of the Office for the Coordination of Humanitarian Affairs of the Secretariat and Operation Lifeline Sudan to deliver such assistance;

4. Renews its call to the Government of the Sudan to respect human rights fully, and calls upon all parties to the conflict to cooperate in order to ensure such respect;

5. Urges the Government of the Sudan to ensure that all limitations on the construction of places of worship are abolished and that the destruction of places of worship ceases and to establish a culture of religious tolerance and non-discrimination that does not jeopardize the free exercise of religious activities;

6. Calls upon all parties to the hostilities to respect fully the applicable provisions of international humanitarian law, including article 3 common to the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977, to halt the use of weapons, including landmines, against the civilian population, and to protect all civilians, especially persons belonging to minorities, women and children, from violations of human

rights and humanitarian law, including forcible displacement, arbitrary detention, ill-treatment, torture and summary executions;

7. Again urges the Government of the Sudan to release all remaining political detainees, cease all acts of torture and cruel, inhuman or degrading punishment, close down all clandestine or unacknowledged detention centres and ensure that all accused persons are held in ordinary police or prison custody where family members and lawyers can visit them and that such persons receive prompt, just and fair trials under internationally recognized standards;

8. Calls upon the Government of the Sudan to comply with applicable international human rights instruments and to bring its national legislation into accordance with those instruments to which the Sudan is a party, and to ensure that all individuals in its territory and subject to its jurisdiction, including members of all religious and ethnic groups, enjoy fully the rights recognized in those instruments;

9. Also calls upon the Government of the Sudan and other parties to civil conflicts to ensure that their forces are properly trained and act in compliance with the standards set forth in international humanitarian law, and that those responsible for violations of such law are brought to justice;

10. Urges the Government of the Sudan to investigate reports that its policies and activities support, condone, encourage or foster the abduction, sale of or trafficking in children and that it subjects children to forced internment, indoctrination or cruel, inhumane or degrading treatment or punishment, and also urges the Government of the Sudan to terminate immediately any such policies or activities and bring to trial any persons suspected of supporting or participating in them and to facilitate the safe return of affected children to their families;

11. Welcomes the assistance the Government of the Sudan provided to the United Nations Children's Fund which returned seventeen abducted Ugandan children to their home country, and urges the continued cooperation of the Government of the Sudan in this regard;

12. Calls upon the Government of the Sudan to cooperate fully with the Special Committee on Allegations of Enforced or Involuntary Disappearances and Reported Cases of Slavery, and expresses the hope that the Committee will, in an independent manner, actively pursue investigations into cases of slavery, the slave trade, forced labour and similar institutions and practices in all parts of the country, producing more than the single report which it has published thus far;

13. Urges the Government of the Sudan to take all appropriate measures to put an immediate end to these practices;

14. Urges the Government of the Sudan to bring to an end without delay all violations of human rights of women and girls, especially in the light of the Beijing Declaration and Platform for Action (A/CONF.177/20) adopted at the Fourth World Conference on Women, and to take urgent measures to ensure the repeal of all legislative and other measures which discriminate against women;

15. Calls upon the Government of the Sudan to cease immediately the deliberate and indiscriminate aerial bombardment of civilian targets and relief operations;

16. Urges all parties to the conflict to cooperate fully with the peace efforts of the Intergovernmental Authority on Drought and Development to negotiate an equitable resolution of the civil conflict and ensure respect for the human rights and fundamental freedoms of the Sudanese people, thereby facilitating the return of refugees and internally displaced persons to their homes;

17. Expresses once again the hope that the dialogue between non-governmental organizations and religious minorities in the Sudan will be continued in order to improve relations between those minorities and the Government of the Sudan;

18. Decides to extend the mandate of the Special Rapporteur for an additional year;

19. Requests the Secretary-General to give the Special Rapporteur all necessary assistance, from within existing resources, in the discharge of his mandate;

20. Stresses the importance of the Special Rapporteur continuing to apply a gender perspective systematically in the reporting process, including information collection and recommendations;

21. Encourages the Special Rapporteurs on religious intolerance and on freedom of opinion and expression to consult with the Special Rapporteur on the situation of human rights in the Sudan and to accept the invitations of the Government of the Sudan;

22. Recommends that priority be given, within existing resources, to the placement of human rights field officers to monitor the situation of human rights in the Sudan, in the locations, under the modalities and for the objectives suggested by the Special Rapporteur;

23. Requests the Special Rapporteur to report to the Commission on Human Rights on the future need for human rights field officers, with the understanding that the Commission will, at its fifty-fifth session, reassess such need;

24. Requests the Special Rapporteur to report his findings and recommendations to the General Assembly at its fifty-third session and to the Commission on Human Rights at its fifty-fifth session;

25. Decides to continue its consideration of this question as a matter of priority at its fifty-fifth session.